IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5432 OF 2004

Prakash Vinayak Yeragi ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. Nitin Pradhan, with Ms. S.D. Khot, for the Applicant.

Mr. K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

15th December 2004

P.C.:

. Heard Counsel for the parties. Perused the record. The only role assigned to the Applicant is that he arrived on the scene and kicked the motor cycle on which the deceased Nityanand Shetty was travelling. No other overt act is assigned. Prima facie, there is substance in the argument canvassed on behalf of the Applicant that the record indicates that Uday had suffered injuries and it was the case of the

accused that deceased was the assailant. The fact that there is union rivalry between the parties is not in dispute. If it is so, there is substance in the argument that the genesis of the prosecution case itself becomes doubtful as something else had actually happened at the scene of occurrence. For the time being, it is sufficient to observe that the role of the Applicant is only one of kicking the vehicle on which the deceased was travelling. As no other overt act is alleged against him and taking overall view of the matter, including that the investigation is complete and charge sheet has been filed; and that there is no likelihood of trial concluding in near future, the Applicant deserves to be enlarged on bail on the following conditions.

(a) The Applicant is granted bail in connection with CR.No. 207/2004 registered with Santacruz Police Station on executing personal bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) with two local sureties in the like amount.

(b) The Applicant shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any maner whatsoever.

(c) The Applicant shall extend full co-operation for early disposal of the trial. If the trial Court is of the opinion that the Applicant is responsible for causing delay in disposal of the trial, that fact be recorded in the roznama which can be a ground for cancellation of bail.

(d) The Applicant shall report to the investigating officer every day after duty hours during the pendency of the trial.

. Application disposed of on the above terms.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)